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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/544,742	04/07/2000	Alex Kuperman	44251	2331

109 7590 03/07/2002
THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P. O. BOX 1967
MIDLAND, MI 48641-1967

EXAMINER

JOHNSON, EDWARD M

ART UNIT	PAPER NUMBER
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1754

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DATE MAILED: 03/07/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Continuation of 3. Applicant's reply has overcome the following rejection(s): The rejections of claims 15 and 17 under 35 USC 103(a) are withdrawn in view of Applicant's remarks. Specifically, it would not have been obvious to one of ordinary skill in the art at the time the invention was made to use the titanyl acetylacetonate of Hirose in the process of Haruta nor would it have been obvious to use the percentage of titanium in the instant claim 17.

Continuation of 5. does NOT place the application in condition for allowance because: It is argued that the Examiner is not persuaded that the term "impregnation" is patentably distinguished over "precipitation". This is not persuasive for reasons already made of record. It is first noted that Applicant argues throughout remarks that "incipient wetness" technique is a specific form of "impregnation". However, Applicant admits in the instant specification that both impregnation and the incipient wetness technique are well known in the art (see instant Specification, page 7, first full paragraph). It is argued that the Examiner asserts that two references illustrate the preparation of an impregnated catalyst made by precipitation. This is not persuasive because Applicant does not appear to dispute or respond to the Examiner's citation of Abel referring to a catalyst produced by precipitation as an "impregnated" catalyst. Also, Applicant appears to admit that Abel discloses precipitation in a process for making an impregnated catalyst in the Table at column 8, arguing only that both impregnation and precipitation take place in Example 3. The same is true for Wang. Applicant appears to suggest that even though Wang refers to a catalyst produced by precipitation as an impregnated catalyst, both take place and therefore the instant claims are patentable. This is not persuasive, since both references show that a process for producing an impregnated catalyst may involve precipitation. It is argued that the Examiner maintains that the Applicant "admits that 'impregnation' is known in the art..." This is not persuasive because the answer to Applicant's question is no. Haruta did not obtain a patent for precipitation. Haruta obtained a patent for the claims therein. And, even if precipitation/impregnation were inventive at the time the invention of Haruta was made, which appears doubtful, that still would not weigh in favor of the patentability of the instant claims, since Haruta qualifies as prior art to the instant invention. It is argued that the final rejection states that features upon which Applicants rely, such as "wetting to the point of incipient wetness" are not recited in claim 1. This is not persuasive for reasons already made of record, namely Applicant's admission in the instant specification, which applicant does not appear to specifically address in remarks. It is argued that with respect to claim 10, the Examiner maintains that Haruta '394 suggests the use of reducing agents containing titanium. This is not persuasive for reasons already of record. It is argued that with regard to claims 11-14, the Examiner totally misstates Applicants' arguments and misses their point. It is noted that the features upon which applicant relies (i.e., titanium bonded directly via σ - or π - bonds to alkyl or cyclopentadienyl groups) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Claim 17 is now allowed. Claim 19 is not allowed for reasons already of record. Claim 28 is unpatentable in view of Applicant's admission, as noted in the previous Office Action. It is argued that the Examiner disposes of Haruta 'EP as "not relied upon". This is not persuasive since Haruta '397 does not teach away from impregnation, and evidence that a different document, which is not relied upon, teaches away from impregnation is irrelevant as to whether Haruta '397 does so, as noted in the previous Office Action. Claims 10-14 are rejected for reasons already of record. Claim 15 is now allowed. Claim 16 is not allowable for reasons already made of record. It is again noted for the record that Applicant argues throughout remarks that "incipient wetness" technique is a specific form of "impregnation". However, Applicant admits in the instant specification that the incipient wetness technique is well known in the art (see instant Specification, page 7, first full paragraph).


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Creation date: 12-11-2003
Indexing Officer: BALEMU - BETHLEHEM ALEMU
Team: OIPEBackFileIndexing
Dossier: 09544742

Legal Date: 04-11-2002

No.	Doccode	Number of pages
1	N/AP	1
2	XT/	1

Total number of pages: 2

Remarks:

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